

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff

v.

NORTHWEST WIRELESS  
ENTERPRISES, LLC d/b/a T-MOBILE,

Defendant.

CIVIL ACTION NO.

COMPLAINT

JURY TRIAL DEMAND

NATURE OF THE ACTION

This is an action under Title I and Title V of the Americans with Disabilities Act of 1990, as amended by the ADA Amendments Act of 2008, 42 U.S.C. § 12101 *et. seq.*, (“ADA” and “ADAAA”) to correct unlawful employment practices on the basis of disability and to provide appropriate relief to Melissa Daniel, who was adversely affected by such practices. The Equal Employment Opportunity Commission (“EEOC”) alleges that Northwest Wireless Enterprises, LLC d/b/a T-Mobile (“Defendant”) discriminated against Ms. Daniel, a qualified individual with a disability, when it terminated her from her Sales Associate position on June 29, 2018.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 107(a) of the ADA, 42 U.S.C. § 12117(a), which incorporates by reference Section 706(f)(1) and (3) of Title VII of

1 the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5(f)(1) and (3) ("Title VII"), and pursuant to  
2 Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

3 2. The employment practices alleged to be unlawful were committed within the  
4 jurisdiction of the United States District Court for the Western District of Washington.

5 PARTIES

6 3. Plaintiff, the Equal Employment Opportunity Commission, is the agency of the  
7 United States of America charged with the administration, interpretation and enforcement of  
8 Title I of the ADA and is expressly authorized to bring this action by Section 107(a) of the ADA,  
9 42 U.S.C. § 12117(a), which incorporates by reference Sections 706(f)(1) and (3) of Title VII, 42  
10 U.S.C. 2000e-5(f)(1).  
11

12 4. On information and belief, Defendant has continuously been doing business in the  
13 State of Washington and has continuously had at least fifteen (15) employees at all relevant  
14 times.  
15

16 5. At all relevant times, Defendant has continuously been an employer engaged in an  
17 industry affecting commerce under Section 101(5) of the ADA, 42 U.S.C. § 12111(5) and  
18 Section 101(7) of the ADA, 42 U.S.C. § 12111(7), which incorporates by reference Sections  
19 701(g) and (h) of Title VII, 42 U.S.C. §§ 2000e(g) and (h).  
20

21 6. At all relevant times, Defendant has been a covered entity under Section 101(2) of  
22 the ADA, 42 U.S.C. § 12111(2).  
23

24 ADMINISTRATIVE PROCEDURES

25 7. More than thirty (30) days prior to the institution of this lawsuit, Charging Party  
Melissa Daniel filed Charge No. 551-2018-03217 with the EEOC alleging violations of Title I of  
the ADA by Northwest Wireless Enterprises, LLC d/b/a T-Mobile. Defendant responded to Ms.

1 Daniel's EEOC charge. The EEOC issued Defendant a Letter of Determination on April 17,  
 2 2019 finding reasonable cause to believe the ADA was violated with regard to Ms. Daniel, and  
 3 invited Defendant to explore informal methods of conciliation to eliminate the unlawful  
 4 employment practices and to provide appropriate relief. The EEOC then communicated with  
 5 Defendant to describe appropriate remedies for the discriminatory practices described in the  
 6 EEOC's Letter of Determination. The EEOC was unable to secure a conciliation agreement  
 7 from Defendant that was acceptable to the Commission. On June 17, 2019, the EEOC issued a  
 8 Notice of Failure of Conciliation to Defendant. All conditions precedent to the institution of this  
 9 lawsuit have been fulfilled.  
 10

#### 11 STATEMENT OF CLAIMS

12 8. Since at least April 30, 2018, Defendant has engaged in unlawful employment  
 13 practices in violation of Sections 102(a) and 102(b)(5)(B) of Title I of the ADA, 42 U.S.C. §§  
 14 12112(a) and 12112(b)(5)(B). Defendant discriminated against Melissa Daniel, a qualified  
 15 individual with a disability, when it terminated her from her Sales Associate job on June 29,  
 16 2018.  
 17

18 9. Ms. Daniel is an individual with a disability. She had permanent severe hearing  
 19 loss in both ears as of January 1, 2016, which she disclosed to Defendant in December 2017  
 20 when she was first hired by Defendant as a Sales Associate at the Spanaway store. Ms. Daniel  
 21 explained to her then supervisor and co-workers that they had to speak to her while facing her  
 22 because of her severe hearing impairment, and that they had to speak loudly and might have to  
 23 repeat themselves. As a result of her permanent physical impairment, Ms. Daniel is substantially  
 24 limited in the major life activities of hearing and communicating.  
 25

1           10.     Despite the foregoing, Ms. Daniel was a qualified individual with a disability  
2 because she satisfactorily performed the essential functions of her Sales Associate job from  
3 December 2017 to June 29, 2018.

4           11.     From December 2017 to June 29, 2018, Defendant did not ever issue any  
5 discipline or take any disciplinary action against Ms. Daniel regarding her attendance, conduct or  
6 work performance.

7           12.     From December 2017 to June 29, 2018, Defendant did not ever provide Ms.  
8 Daniel with any evaluation that indicated her work performance was unacceptable using  
9 standards or performance metrics that applied to similarly situated Sales Associates.

10           13.     On April 30, 2018, two of Defendant's employees provided Ms. Daniel with  
11 information that Defendant's Manager at the Spanaway facility wanted to terminate her because  
12 he did not want to continue providing her with a reasonable accommodation for her severe  
13 hearing impairment.

14           14.     On May 1, 2018, Ms. Daniel informed Defendant's owner Michael Wallitner and  
15 District Manager Josh Martin that her manager at the Spanaway facility harbored discriminatory  
16 animus towards her because of her severe hearing impairment and that he wanted to terminate  
17 her. Defendant's owner and District Manager took no action to respond to Ms. Daniel's internal  
18 complaint of discrimination.

19           15.     Defendant terminated Ms. Daniel on June 29, 2018 from her Sales Associate  
20 position for alleged performance issues and tardiness.

21           16.     The effect of the practices complained of in paragraphs 8-15 above has been to  
22 deprive Ms. Daniel of equal employment opportunities and otherwise adversely affect her status  
23 as an employee, because of her disability.  
24  
25

1           17.     The unlawful employment practices complained of in paragraphs 8-15 were and  
2 are intentional.

3           18.     The unlawful employment practices complained of in paragraphs 8-15 above were  
4 done with malice or with reckless indifference to the federally protected rights of Melissa Daniel.

5                               PRAYER FOR RELIEF

6           Wherefore, the Commission respectfully requests that this Court:

7           A.     Grant a permanent injunction enjoining Defendant, its officers, agents, successors,  
8 assigns, and all persons in active concert or participation with it, from unlawfully failing to  
9 provide equal employment opportunities to employees with disabilities and to accommodate  
10 employees' disabilities, and any other employment practice which discriminates on the basis of  
11 disability.  
12

13          B.     Order Defendant to institute and carry out policies, practices, and programs which  
14 provide equal employment opportunities for qualified individuals with disabilities, and which  
15 eradicate the effects of its past and present unlawful employment practices.  
16

17          C.     Order Defendant to make whole Melissa Daniel by providing appropriate back  
18 pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief  
19 necessary to eradicate the effects of its unlawful employment practices.

20          D.     Order Defendant to make whole Melissa Daniel by providing compensation for  
21 past and future pecuniary losses resulting from the unlawful employment practices described in  
22 paragraphs 8-15 above, including past and future out-of-pocket losses, in amounts to be  
23 determined at trial.  
24

25          E.     Order Defendant to make whole Melissa Daniel by providing compensation for  
past and future non-pecuniary losses resulting from the unlawful practices complained of in

1 paragraphs 8-15 above, including emotional pain, suffering, inconvenience, loss of enjoyment of  
2 life, and humiliation, in amounts to be determined at trial.

3 F. Order Defendant to pay Melissa Daniel punitive damages for its malicious and  
4 reckless conduct, as described in paragraphs 8-15 above in amounts to be determined at trial.

5 G. Grant such further relief as the Court deems necessary and proper in the public  
6 interest.

7 H. Award the Commission its costs of this action.  
8

9  
10 JURY TRIAL DEMAND

11 The Commission requests a jury trial on all questions of fact raised by its Complaint.  
12

13  
14 DATED this 31st day of July, 2019.

15 BY: /s/ Roberta L. Steele  
16 Roberta L. Steele  
17 Regional Attorney  
18 EQUAL EMPLOYMENT OPPORTUNITY  
19 COMMISSION  
20 San Francisco District Office  
21 450 Golden Gate Ave, 5th Floor West  
22 P.O. Box 36025  
23 San Francisco, CA 94102  
24 TEL: (415) 522-3011  
25 roberta.steele@eeoc.gov

JAMES L. LEE  
Deputy General Counsel

GWENDOLYN Y. REAMS  
Associate General Counsel

EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION  
Office of the General Counsel  
131 M Street NE, 5<sup>th</sup> Floor  
Washington, D.C. 20507

22 BY: /s/ John F. Stanley  
23 John F. Stanley  
24 Supervisory Trial Attorney  
25 EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION  
Seattle Field Office  
909 First Avenue, Suite 400  
Seattle, WA 98104-1061  
Telephone (206) 220-6896  
john.stanley@eeoc.gov

1 BY: /s/ Damien A. Lee

2 Damien A. Lee

3 Senior Trial Attorney

4 Seattle Field Office

5 909 1<sup>st</sup> Avenue, Suite 400

6 Seattle, Washington 98104-1061

Telephone (206) 220-6915

Facsimile (206) 220-6196

damien.lee@eeoc.gov

Attorneys for Plaintiff EEOC

**CERTIFICATE OF SERVICE**

I hereby certify that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system.

DATED this 31st day of July, 2019

/s/ Rebecca Eaton  
REBECCA EATON  
Paralegal Specialist  
EEOC Seattle Field Office  
909 First Avenue, Suite 400  
Seattle, WA 98104-1061  
Telephone: 206-220-6855  
Email: rebecca.eaton@eeoc.gov